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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA )  
Plaintiff, ) Case No. 09.30041. PA  
v. ) INFORMATION  
CLIFFORD R. TRACY, ) 36 C.F.R. 261.10(p)  
Defendant. )

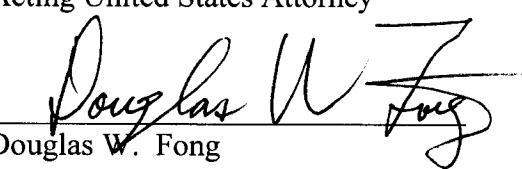
THE UNITED STATES ATTORNEY CHARGES:

COUNT 1

On or about September 9, 2009, in the District of Oregon, defendant CLIFFORD R. TRACY did unlawfully and knowingly use or occupy National Forest System land by excavating soil and/or conducting mining operations, without an approved operating plan when such authorization was required, all in violation of 36 C.F.R. § 261.10(p) and 36 CFR § 228.4(a)(3).

Dated this 10th of September, 2009.

KENT S. ROBINSON  
Acting United States Attorney

  
Douglas W. Fong  
Assistant U.S. Attorney

1                   **AFFIDAVIT OF PROBABLE CAUSE**

2                   I, Sean Thomas, being first duly sworn, depose and say the following:

3                   This affidavit is made in support of probable cause to arrest **Clifford R. Tracy** for  
4                   violations of 36 CFR 261.10(p) on September 9<sup>th</sup>, 2009 on National Forest  
5                   System lands in the vicinity of Forest Road 4612 058 and Sucker Creek,  
6                   Josephine County, Oregon.

7                   I am a Law Enforcement Officer with the United States Department of  
8                   Agriculture, Forest Service and have been so employed since February, 2003, with  
9                   fifteen years total law enforcement experience.

10                  I have specialized training in Land Management Law Enforcement and have  
11                  been involved in a wide variety of criminal investigations and incidents of illegal  
12                  activities occurring on National Forest administered lands.

13                   **FACTS**

14                  On September 3<sup>rd</sup> , 2009, at approximately 1000 hours I received a  
15                  telephone call from US Forest Service Capt. Brinkley advising me that a miner in the  
16                  area of Sucker Creek had caused substantial damage to Forest Service land, and the  
17                  person did not have an operating plan to cover his mining activities.

18                  I responded to the Wild Rivers Ranger Station, located in Cave Junction, OR. I  
19                  met with the minerals personnel for the Rogue River – Siskiyou National Forest. Karla  
20                  Gallegos, the mining administrator for the forest advised me that on Wednesday  
21                  September 2<sup>nd</sup>, 2009, in the morning hours, she went to Forest Road 4612 (Sucker  
22                  Creek Rd.), and then down the 058 spur, taking the left fork and then up the creek for a  
23                  distance. Mrs. Gallegos had received a report of substantial mining activity in this area,  
24                  and was aware there was no operations plan for this claim. The mining claim in

1 question is the Tracy Placer mining claim. Mrs. Gallegos stated she observed several  
2 dump trucks, an excavator, and other mining equipment. A hole had been dug into the  
3 ground near Sucker Creek and a dredge was in the hole. Mrs. Gallegos stated a  
4 person was present at the mining claim named Clifford Tracy. Mrs. Gallegos was  
5 familiar with Mr. Tracy. Mr. Tracy was uncooperative and refused to stop mining when  
6 directed to do so. Mrs. Gallegos states she observed Mr. Tracy spreading rock on a  
7 freshly build access road to the claim. Mrs. Gallegos stated she had been to this  
8 location about a month prior and there had been substantial mining improvements and  
9 significant ground disturbance in that period of time. Mrs. Gallegos stated there was no  
10 operating plan to cover the mining activities she had witnessed. Mrs. Gallegos stated  
11 numerous trees had been felled, with one being over 40 inches in diameter breast  
12 height.

13 I responded to the mining claim with Mrs. Gallegos and observed the  
14 aforementioned disturbance to the land, and also located another hole dug with water in  
15 it, and another dredge in the bottom. I also observed significant sedimentary discharge  
16 into the creek, which was clouding Sucker Creek. Mr. Tracy was not present.

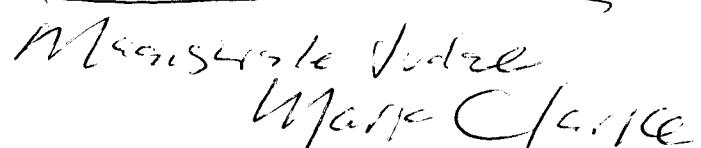
17 On September 4<sup>th</sup>, 2009 at approximately 1850 hours myself, Capt. Brinkley and  
18 several other officers went to 2534 Holcomb Springs Rd., Gold Hill, OR. We contacted  
19 Mr. Clifford Tracy and issued him a violation notice for a violation of 36CFR261.6(a) –  
20 Cutting timber without a permit, and 36CFR261.10(p) – Mining without a permit, when  
21 required. Mr. Tracy was told to cease mining until he obtained an operating plan. Mr.  
22 Tracy admitted causing the previously mentioned ground disturbance and also admitted  
23 cutting down the large diameter tree. Mr. Tracy indicated that the Forest Service  
24

1 officers had no authority to tell him to stop mining, and that he would not cease his  
2 mining operations unless directed to do so by a judge.

3 On September 9<sup>th</sup>, 2009 at approximately 1200 hours I went to the Tracy Placer  
4 mining claim. I observed Mr. Tracy engaging in mining activity. Mr. Tracy and another  
5 individual were in the process of removing more rock and sediment from the previously  
6 mentioned pit, and the rock pile next the pit had freshly dug, wet rock. They were using  
7 the excavator to remove material from the pit. The pile of rock was also taller. I  
8 watched this activity for approximately 20 minutes and then departed.

9 I reported the activity to Capt. Brinkley and was advised we would be arresting  
10 Mr. Tracy for a violation of 36CFR261.10(p). At approximately 1726 hours I affected a  
11 traffic stop of Mr. Tracy, and took him into custody. Mr. Tracy was read his Miranda  
12 rights, but made no statement. I spoke with Mr. Richard Maynard, the person I had  
13 seen mining with Mr. Tracy earlier in the day. Mr. Maynard stated they had arrived  
14 around dawn and began mining. Mr. Maynard stated they had widened the hole using  
15 the excavator, and had been dredging and sifting in the hole all day. Mr. Maynard  
16 stated both he and Mr. Tracy had been engaged in this activity.

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18   
19 Sean Thomas  
20 Law Enforcement Officer  
21 USDA Forest Service Law Enforcement and  
22 Investigations

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24   
3-- AFFIDAVIT OF OFFICER SEAN THOMAS